

57-1-21. Trustees of trust deeds -- Qualifications.

- (1) (a) The trustee of a trust deed shall be:
- (i) any active member of the Utah State Bar who maintains a place within the state where the trustor or other interested parties may meet with the trustee to:
 - (A) request information about what is required to reinstate or payoff the obligation secured by the trust deed;
 - (B) deliver written communications to the lender as required by both the trust deed and by law;
 - (C) deliver funds to reinstate or payoff the loan secured by the trust deed; or
 - (D) deliver funds by a bidder at a foreclosure sale to pay for the purchase of the property secured by the trust deed;
 - (ii) any depository institution as defined in Section 7-1-103, or insurance company authorized to do business and actually doing business in Utah under the laws of Utah or the United States;
 - (iii) any corporation authorized to conduct a trust business and actually conducting a trust business in Utah under the laws of Utah or the United States;
 - (iv) any title insurance company or agency that:
 - (A) holds a certificate of authority or license under Title 31A, Insurance Code, to conduct insurance business in the state;
 - (B) is actually doing business in the state; and
 - (C) maintains a bona fide office in the state;
 - (v) any agency of the United States government; or
 - (vi) any association or corporation that is licensed, chartered, or regulated by the Farm Credit Administration or its successor.
- (b) For purposes of this Subsection (1), a person maintains a bona fide office within the state if that person maintains a physical office in the state:
- (i) that is open to the public;
 - (ii) that is staffed during regular business hours on regular business days; and
 - (iii) at which a trustor of a trust deed may in person:
 - (A) request information regarding a trust deed; or
 - (B) deliver funds, including reinstatement or payoff funds.
- (c) This Subsection (1) is not applicable to a trustee of a trust deed existing prior to May 14, 1963, nor to any agreement that is supplemental to that trust deed.
- (d) The amendments in Laws of Utah 2002, Chapter 209, to this Subsection (1) apply only to a trustee that is appointed on or after May 6, 2002.
- (2) The trustee of a trust deed may not be the beneficiary of the trust deed, unless the beneficiary is qualified to be a trustee under Subsection (1)(a)(ii), (iii), (v), or (vi).
- (3) The power of sale conferred by Section 57-1-23 may only be exercised by the trustee of a trust deed if the trustee is qualified under Subsection (1)(a)(i) or (iv).
- (4) A trust deed with an unqualified trustee or without a trustee shall be effective to create a lien on the trust property, but the power of sale and other trustee powers under the trust deed may be exercised only if the beneficiary has appointed a qualified successor trustee under Section 57-1-22.

Amended by Chapter 250, 2008 General Session